

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA

ERIC WALKER, <i>et al</i> ,	)	
	)	
Plaintiffs,	)	
	)	
vs.	)	Case No. CIV-11-800-D
	)	
BUILDDIRECT.COM TECHNOLOGIES,	)	
INC., <i>et al.</i> ,	)	
	)	
Defendants.	)	

**ORDER**

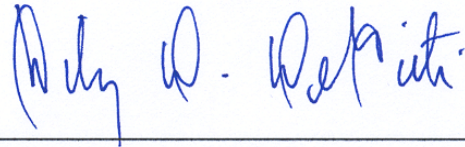
Before the Court are BuildDirect.com Technologies, Inc.’s Motion to Dismiss Class Action Complaint [Doc. No. 14] and Motion to Compel Arbitration and Dismiss [Doc. No. 15]. Both challenge the sufficiency of the Class Action Complaint to permit Plaintiffs to proceed with a civil action in this Court. However, on September 19, 2011, Plaintiffs timely filed their First Amended Class Action Complaint [Doc. No. 18].<sup>1</sup> This amendment supersedes Plaintiffs’ original pleading and renders it of no legal effect. *See Davis v. TXO Prod. Corp.*, 929 F.2d 1515, 1517 (10th Cir. 1991); *see also Mink v. Suthers*, 482 F.3d 1244, 1254 (10th Cir. 2007); *Miller v. Glanz*, 948 F.2d 1562, 1565 (10th Cir. 1991). Accordingly, Defendant’s Motions directed at Plaintiffs’ original pleading are moot.

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<sup>1</sup> A plaintiff may amend as a matter of right within 21 days after service of a Rule 12(b) motion or a responsive pleading. *See* Fed. R. Civ. P. 15(a)(1)(B).

IT IS THEREFORE ORDERED that Defendant's Motions [Doc. Nos. 14 and 15] are DENIED without prejudice to resubmission, if appropriate, in response to the amended pleading.

IT IS SO ORDERED this 20<sup>th</sup> day of September, 2011.



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TIMOTHY D. DEGIUSTI  
UNITED STATES DISTRICT JUDGE